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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 MICHEL GELINAS, an individual,

11 Plaintiff,

12 vs.

13 THE BERGQUIST COMPANY, a Minnesota
14 corporation, and DOES 1 – 20, inclusive,

15 Defendants.

16
17 Case No.: C-08-02137 PVT

**DECLARATION OF MARGARET C.
HERSHISER**

18 I, Margaret C. Hershiser, declare that:

19 1. I am an attorney with the law firm of Koley Jessen P.C., L.L.O.. I am one of the
20 attorneys for Plaintiff, Michel Gelinas.

21 2. On February 15, 2008, I have a telephone conference with Bruce Douglas, counsel for
22 Defendant, The Bergquist Company.

23 3. During our telephone conference we discussed the letter that Mr. Gelinas had received
24 from Mr. Douglas on February 8, 2008.

25 4. I raised a number of issues concerning the Non-Compete, Non-Solicitation and
26 Confidentiality Agreement (“Non-Compete Agreement”) and the Separation Agreement and General
27 Release (“Separation Agreement”) between the parties, including the inapplicability of the arbitration

1 provision in the Separation Agreement to the Non-Compete Agreement, and indicated that Gelinas'
2 position was that neither of the agreements were enforceable.

3 5. At the conclusion of our conversation, Mr. Douglas indicated that he would speak to
4 Defendant and inform me of his intended next steps.

5 6. Thereafter, on February 28, 2008, Mr. Douglas advised me that he intended to file a
6 claim in arbitration.

7 7. In response, I expressed my surprise that Defendant would be filing its claim in
8 arbitration before the parties had the opportunity to engage in informal discussions to resolve the
9 matter.

10 8. At no time during either of our conversations did Mr. Douglas indicate that he would
11 also be filing a lawsuit, despite one of our conversations occurring on the same day that the
12 Minnesota litigation was filed.

13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed on July 8, 2008 at Omaha, Nebraska.

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17 Margaret C. Hershiser
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